



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,765	01/19/2005	Masahiro Ishikawa	2005-0023A	2676

513 7590 11/16/2005

WENDEROTH, LIND & PONACK, L.L.P.  
2033 K STREET N. W.  
SUITE 800  
WASHINGTON, DC 20006-1021

EXAMINER

TSAY, MARSHA M

ART UNIT	PAPER NUMBER
----------	--------------

1653

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/521,765

Applicant(s)

ISHIKAWA ET AL.

Examiner

Marsha M. Tsay

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

Claims 1-9 are pending and currently under examination.

Priority: This application is a 371 of PCT/JP03/09282, filed July 22, 2003 which claims benefit to foreign application JP 2002-211845, filed July 19, 2002.

### ***Specification***

The disclosure is objected to because of the following informalities: the priority data needs to be updated.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Renkema et al. (2000 J. Biotech. 79: 223-230; IDS). The use of the term "containing" has been interpreted in its broadest and most reasonable meaning by the Examiner. Therefore, the use of the term "containing" has been interpreted in the same fashion as the use of open language "comprising," thus allowing for anticipation of additional materials.

Art Unit: 1653

Renkema et al. teach the influence of pH on the gel forming properties of soy protein isolate (SPI), which consists of about 60% glycinin and 30%  $\beta$ -conglycinin (p. 224, 2.1). In the materials and methods section (p. 224-225), Renkema et al. teach SPI dispersions were prepared by suspending freeze-dried SPI in 0.2 M NaCl solutions with stirring, and subsequently adjusted to pH 3.8, for heat denaturation and solubility studies. Renkema et al. teach the heat denaturation of a SPI solution at pH 3.8 (claim 1, 2) from 20°C to 115°C (claim 3) was monitored by differential scanning calorimetry (p. 225). In Table 1, Renkema et al. teach protein "solubility" results for SPI dispersions after heating as a function of pH, where at SPI has a solubility of 54% at neutral pH and a solubility of 7% at pH 3.8 (p. 228; claims 4, 6-7).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Renkema et al. (2000 J. Biotech. 79: 223-230; IDS) and further in view of Makoto et al. (JP 11308969; IDS). The teachings of Renkema et al. are set forth above. Renkema et al. do not teach a food comprising  $\beta$ -conglycinin protein.

Makoto et al. teach that soybean protein can be used in cereals.

It would have been obvious to a person having ordinary skill in the art to process  $\beta$ -conglycinin protein by heating a solution comprising  $\beta$ -conglycinin protein under acidic conditions and use it in a food composition such as a cereal protein because Renkema et al. teach a process for producing processed  $\beta$ -conglycinin protein and Makoto et al. teach soy protein, which comprises  $\beta$ -conglycinin, can be used as a cereal protein (claims 1-9).

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marsha M. Tsay whose telephone number is 571-272-2938. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
KAREN COCHRANE CARLSON, PH.D  
PRIMARY EXAMINER

Application/Control Number: 10/521,765  
Art Unit: 1653

Page 5

November 8, 2005